

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated to the Public by the Department of Energy

I. Background

Section 515, Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554), directed the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidance to Federal Agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal Agencies." The OMB guidelines, published in the Federal Register on February 22, 2002 (67 FR 8452), direct agencies to issue by October 1, 2002, their own implementing guidelines that include administrative mechanisms allowing members of the public to seek and obtain correction of information disseminated by the agency that does not comply with the OMB or agency guidelines.

The Department of Energy (DOE) Information Quality Guidelines, issued by the Department's Chief Information Officer (CIO) pursuant to OMB's Guidelines, are intended to provide guidance to Departmental Elements (*i.e.*, major DOE offices) on maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated to the public.

The DOE Guidelines also establish mechanisms for members of the public to seek and obtain administrative correction of disseminated information that does not comply with the quality requirements of these Guidelines. Finally, the Guidelines explain how the CIO will comply with OMB's annual reporting requirement concerning complaints from members of the public.

The DOE Information Quality Guidelines are effective on October 1, 2002.

II. Introduction.

The CIO has designed these Guidelines to apply to a wide variety of DOE information dissemination activities that may range in importance and scope. They are intended to be sufficiently generic to fit all media, printed, electronic, or other forms. The CIO has sought to avoid the problems that would be inherent in developing detailed, prescriptive, "one-size-fits-all" DOE-wide guidelines that would artificially require different types of dissemination activities to be treated in the same manner.

The Guidelines are designed so that DOE Elements can apply them in a common sense and workable manner. It is important that these guidelines not impose unnecessary administrative burdens that would inhibit DOE Elements from continuing to take advantage of the Internet and other technologies to disseminate information to the public. In this regard, DOE Elements may incorporate the standards and procedures required by these guidelines into their existing information resources management and administrative practices rather than create new and potentially duplicative or contradictory processes. DOE Elements may rely on their implementation of the computer security provisions of the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.*, to establish appropriate security safeguards for ensuring the integrity of the information that they disseminate.

III. DOE Information Quality Guidelines.

A. What definitions apply to these Guidelines?

1. DOE Element means a major DOE office headed by an official whose position is subject to Senate confirmation or an office which directly reports to the Secretary, Deputy Secretary, or either of the DOE Under Secretaries.
2. Dissemination means DOE Element initiated or sponsored distribution of information to the public.
3. Influential means, when used in the context of scientific, financial, or statistical information, information (1) that is subject to embargo until the date of its dissemination by the Department or DOE Element disseminating the information because of potential market effects; (2) that is the basis for a DOE action that may result in an annual effect on the economy of \$100 million or more; or (3) that is designated by a DOE Element as “influential.”
4. Information means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms, including information that a DOE Element disseminates from a web page, but excluding the provision of hyperlinks to information that others disseminate.
5. Information dissemination product means any book, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, a DOE Element disseminates to the public, including any electronic document, CD-ROM, or web page.
6. Integrity means the information has been secured and protected from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.
7. Objectivity means the information is presented in an accurate, clear, complete, and unbiased manner and the substance of the information is accurate, reliable, and unbiased.
8. Quality means utility, objectivity, and integrity.
9. Reproducibility means capability of being substantially reproduced, subject to an acceptable degree of imprecision, and with respect to analytical results, “capable of being substantially reproduced” means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision or error.
10. Subject to public comment means that DOE has made the information available for comment by members of the public, preliminary to making a final determination, through a notice in the *Federal Register* including, but not limited to, a notice of inquiry, an advance notice of proposed rulemaking, a notice of proposed rulemaking, a notice reopening or extending a comment period due to receipt of new information, a notice of availability of a draft environmental impact statement, a notice of a proposed information collection, or any other *Federal Register* notice that provides an opportunity for comment by members of the public regarding the quality of information on which a final determination may be based.

11. Utility means the usefulness of the information to its intended users, including the public.

B. Which public disseminations of information are and are not subject to these Guidelines?

These Guidelines apply to any public dissemination of information. The definitions of “information” and “dissemination” establish the scope of the applicability of the guidelines. “Information” means Any communication or representation of knowledge such as facts or data. Consequently, Information does not include opinions.

“Dissemination” is defined to mean agency initiated or sponsored distribution of information to the public, including, for example, a risk assessment prepared by a DOE Element to inform the agency’s formulation of possible regulatory or other action. A DOE Element does not initiate the dissemination of information when a Federally employed scientist or Federal grantee or contractor publishes his or her research findings, even if the DOE retains ownership or other intellectual property rights because DOE paid for the research. In such cases, to avoid confusion, the DOE Element should ensure that the researcher includes an appropriate disclaimer that the views are the researcher’s and do not necessarily reflect the views of DOE. However, if a DOE Element directs a Federally employed scientist or Federal grantee or contractor to disseminate information and retains authority to review and approve the information before release, then the DOE Element has sponsored the dissemination of the information.

Dissemination also does not include the following distributions:

- (1) Press releases, including but not limited to fact sheets, press conferences or similar communications in any medium that announce, support the announcement or give public notice of information a DOE Element has disseminated elsewhere;
- (2) Any inadvertent or unauthorized disclosure of information intended only for inter-agency and intra-agency communications;
- (3) Correspondence with individuals or persons;
- (4) Testimony and other submissions to Congress containing information a DOE Element has disseminated elsewhere;
- (5) Responses to requests for DOE records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or similar laws;
- (6) Information in public filings (such as public comments received by DOE in rulemaking proceedings), except where the DOE Element distributes information submitted to it by a third party in a manner that suggests that the DOE Element endorses or adopts the information, or indicates in its distribution that it is using or proposing to use the information to formulate or support a regulation, guidance, or other DOE Element decision or position.
- (7) Information contained in subpoenas or documents filed in connection with adjudicative proceedings (characterized by trial-type procedures with opportunity to test information quality), including DOE adjudicatory orders, opinions, amicus and other briefs, documents filed in

Bonneville Power Administration's ratemaking proceedings, and documents submitted for purposes of a Nuclear Regulatory Commission licensing proceeding for a DOE facility;

(8) Procedural, operational, policy and internal manuals and memoranda prepared for the management and operation of DOE Elements that are not primarily intended for public dissemination;

(9) Archival records (including information made available to the public on a DOE web site to document historical DOE actions); and

(10) Communications intended to be limited to government employees or DOE contractors or grantees.

C. What are the Responsibilities of DOE Elements for ensuring quality of information disseminated to the public and responding to requests from members of the public for correction of information?

1. Ensuring Quality

As a guiding principle, DOE Elements should have as a performance goal that information disseminated to the public meets a basic level of quality. The quality of information disseminated by DOE Elements is measured by its utility, objectivity, and integrity. "Objectivity" focuses on whether the disseminated information is being presented in an accurate, clear, complete and unbiased manner and as a matter of substance, is accurate, reliable and unbiased. This includes whether the information is presented in the proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete, and unbiased presentation.

Also, DOE Elements should (to the extent possible, consistent with security, privacy, intellectual property, trade secrets, and confidentiality protections) identify the sources of the disseminated information and, in a scientific, financial, or statistical context, the supporting data and models, so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where feasible, data should have full, accurate, transparent documentation, and possible sources of error affecting data quality should be identified and disclosed to users.

In addition, "objectivity" involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, the original and supporting data should be generated, and the analytical results developed, using sound statistical and research methods. If the data and analytical results have been subjected to formal, independent, external peer review, the information may generally be presumed to be of acceptable objectivity. However, this presumption is rebuttable based on a persuasive showing by a member of the public seeking correction of information in a particular instance. If DOE Element-sponsored peer review is employed to help satisfy the objectivity standard, the review process employed should meet the general criteria for competent and credible peer review recommended by OMB's Office of Information and Regulatory Affairs to the President's Management Council (http://www.whitehouse.gov/omb/inforeg/oira_review-process.html), namely "that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the

issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner.”

Influential information. If a DOE Element is responsible for disseminating and disseminates influential scientific, financial information, a high degree of transparency of data and methods should be ensured to facilitate the reproducibility of such information by qualified third parties. A Influential@ when used in the context of scientific, financial or statistical information, means information: (1) that is subject to embargo until its dissemination by DOE or a DOE Element disseminating the information because of potential market effects; (2) that is the basis for a DOE action that may result in an annual effect on the economy of \$100 million or more; or (3) that is designated by a DOE Element as “influential.”

With regard to original and supporting data related thereto, these Guidelines do not direct that all disseminated original and supporting data be subjected to the reproducibility requirement applicable to influential information. DOE Elements may identify, in consultation with the relevant scientific and technical communities, those particular types of data that may practicably be subjected to the reproducibility requirement, given ethical, feasibility, confidentiality, privacy, trade secret, security, and intellectual property constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (*i.e.* a new experiment, test, or sample) should not be required prior to each dissemination. At a minimum, DOE Elements should assure reproducibility for those kinds of original and supporting data according to “commonly accepted scientific, financial, or statistical standards.”

With regard to analytic results related thereto, DOE Elements generally should demonstrate sufficient transparency about data and methods that an independent reanalysis could be undertaken by a qualified member of the public. These transparency standards apply to analysis of data from a single study as well as to analyses that combine information from multiple studies.

Making the data and models publicly available will assist in determining whether analytical results are capable of being substantially reproduced. However, the objectivity standard does not override other compelling interests such as privacy, trade secret, security, intellectual property, and other confidentiality protections.

In situations where public access to data and methods will not occur due to other compelling interests, DOE Elements should apply rigorous robustness checks to analytic results and document what checks were undertaken. DOE Elements should, however, disclose the specific data sources that have been used and the specific quantitative methods and assumptions that have been employed. However, each DOE Element should define the type of robustness checks and the level of detail for documentation thereof, in ways appropriate for it given the nature and multiplicity of issues for which the DOE Element is responsible.

With regard to the dissemination of information containing analyses of risks to human health, safety and the environment, it is DOE policy for DOE Elements in complying with the OMB guidelines to apply the following criteria adapted from the Safe Drinking Water Act Amendments of 1996.

1. Use:
 - a. The best available peer-reviewed science and supporting studies conducted in

accordance with sound and objective scientific practices; and

b. Data collected by accepted methods (if the reliability of the method and the nature of decision justify use of the data).

2. Present information that is comprehensive, informative, and understandable.

3. Specify, to the extent practicable:

a. Each population addressed by any estimate of risk;

b. The expected risk or central estimate of risk for the populations addressed;

c. Each appropriate upper-bound or lower-bound estimate of risk;

d. Each significant uncertainty identified in the process of an assessment of risk and the studies that would assist in resolving the uncertainty; and

e. Peer-reviewed studies known to the DOE Element that support, are directly relevant to, or fail to support any estimate of risk effects and the methodology used to reconcile inconsistencies in the scientific data.

DOE Elements responsible for dissemination of vital health, environmental and medical information should interpret the reproducibility and peer-review standards in a manner appropriate to assuring the timely flow of vital information to medical providers, patients, health agencies, and the public.

"Utility" refers to the usefulness of the information to intended users including the public. In assessing the usefulness of information, DOE Elements need to consider the uses of the information they plan to disseminate not only from their perspective but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, DOE Elements should take care to ensure that transparency has been addressed in its review of the information.

"Integrity" refers to security -- the protection of information from unauthorized access or revision to ensure that information by DOE or DOE Elements is not compromised through corruption or falsification.

Pre-dissemination review procedures. Before disseminating information to members of the public, the originating office of the DOE Element is responsible for ensuring that the information is consistent with the OMB and DOE guidelines and that the information is of adequate quality for dissemination. If the information is influential financial, scientific, or statistical information, then, to the extent practicable, the DOE Element should provide for higher level review of the originating office's conclusions. Each DOE Element should identify for the CIO a high ranking official who is responsible for ensuring the accountability of the DOE Element's program offices in reviewing information to be disseminated to members of the public under the OMB and DOE guidelines.

As a matter of good and effective information resources management, DOE Elements may develop and post on their websites supplemental guidelines for the process they will follow for reviewing the quality (including objectivity, utility and integrity) of information before it is disseminated. DOE Elements should treat information quality as integral to every step of development of information, including creation, collection, maintenance, and dissemination. This process will enable every DOE Element to substantiate the quality of the information it has disseminated through documentation or other means appropriate to the information.

Paperwork Reduction Act. It is important that DOE Elements make use of OMB's Paperwork

Reduction Act (PRA) clearance process to help improve the quality of information that the DOE Elements collect and disseminate to the public. DOE Elements already are required to demonstrate in their PRA submissions to OMB the “practical utility” of a proposed collection of information the DOE Element plans to disseminate. Additionally, for all proposed collections of information that will be disseminated to the public, DOE Elements should evaluate the proposed collection in light of the OMB and DOE guidelines, and based on that evaluation, state in their PRA clearance submissions to OMB that the proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with the OMB and DOE information quality guidelines.

2. Responding to requests from members of the public

To facilitate public review of information disseminated to the public, these Guidelines provide procedures allowing members of the public to seek and obtain correction of information disseminated to the public that does not comply with the quality provisions of the OMB and DOE guidelines. The procedures, set out in Part IV below, provide separate mechanisms for information set forth or referenced in a DOE or DOE-sponsored document subject to public comment and all other DOE or DOE-sponsored information.

IV. Requests from members of the public for correction of publicly disseminated data.

A. How does a member of the public request correction of publicly disseminated information?

1. Requests from members of the public seeking correction of DOE or DOE-sponsored documents subject to public comment, rulemaking notices, and environmental impact statements.

(A) With respect to information set forth or referenced with endorsement in a DOE or DOE-sponsored document subject to public comment on or after October 1, 2002, a member of the public must request correction within the comment period in a comment that:

(1) Specifically identifies the information in question and the document(s) containing the information;

(2) Explains with specificity the reasons why the information is inconsistent with the applicable quality standards in the OMB or DOE guidelines;

(3) Presents substitute information, if any, with an explanation showing that such information is consistent with the applicable quality standards in the OMB and DOE guidelines; and

(4) Justifies the necessity for, and the form of, the requested correction.

(B) A member of the public must file a request for correction of a document subject to public comment at the address for comments set forth in DOE’s notice providing for public comment.

(C) If a member of the public requests correction of information set forth or referenced with endorsement in a document subject to public comment prior to publication of the final document and provides a justification of the necessity for an early response, DOE may consider providing a preliminary response including but not limited to a *Federal Register* notice describing the request for correction and reopening the comment period.

(D) If a member of the public files a request for correction under paragraph IV.A.1 of these guidelines after the close of a comment period, DOE may consider the request to the same extent that DOE considers late-filed comments and time permits such consideration.

(E) With respect to information that is set forth or referenced with endorsement in a notice of final rulemaking or a final regulation disseminated on or after October 1, 2002, (regardless of when first disseminated and regardless of whether there was prior notice and opportunity for public comment), a member of the public:

(1) Must file a request for correction with Office of the Chief Information Officer at the address provided in paragraph IV.A.2 of these guidelines;

(2) Must include in such a request the content required by paragraph IV.A.1 of these guidelines; and

(3) Must file such a request regarding the regulatory text or supporting information that would necessitate changes to the regulatory text as a petition for reconsideration or for regulatory amendments under 5 U.S.C. 553(e).

(F) With respect to information set forth or referenced with endorsement in a final environmental impact statement (and any related portion of a Record of Decision) disseminated on or after October 1, 2002, regardless of when first disseminated, a member of the public:

(1) Must file a request for correction with the Office of the Chief Information Officer at the address provided in paragraph IV.A.2 of these guidelines;

(2) Must include in such a request the content required by paragraph IV.A.1 of these guidelines; and

(3) Must file such a request in the form of a petition for a supplemental environmental impact statement if the petitioner asserts that are significant new circumstances or information as provided for in 40 CFR 1502.9(c)(1)(ii).

(G) With respect to information that is made subject to public comment on or after October 1, 2002, and that is set forth or referenced with endorsement in a DOE notice of final rulemaking or a final environmental impact statement (and any related portions of a Record of Decision), DOE may summarily deny a request for correction as untimely.

(H) A member of the public who files a request for correction under paragraph IV.A.1 has the burden of justification with respect to the necessity for correction as well as with respect to the timing and type of correction requested.

2. Requests from members of the public seeking correction of DOE or other DOE-sponsored documents

(A) With respect to information set forth or referenced with endorsement in a DOE or DOE-sponsored document that is disseminated on or after October 1, 2002, regardless of when the information was first disseminated, and that is not subject to paragraph IV.A.1 of these guidelines, a member of the public must request correction by letter to the Office of the Chief Information Officer, Attention: DOE Quality Guidelines, U.S. Department of Energy, Forrestal Building -- Room 8H-089, 1000 Independence Avenue N.W., Washington, D.C. 20585, or via Fax to (202) 586-7966, or by providing the information called for at the CIO web site: <http://cio.doe.gov/informationquality> . This web site requests the information set forth in paragraph (B) below.

(B) If a member of the public requests correction of DOE or DOE-sponsored information by letter, addressed to the CIO, then the letter must:

(1) Specifically identify the information in question and the document(s) containing the information;

(2) Explain with specificity the reasons why the information is inconsistent with the applicable quality standards in the OMB Guidelines or DOE guidelines;

(3) Present substitute information, if any, with an explanation showing that such information is consistent with the OMB guidelines and the DOE implementing guidelines; and

(4) Justify the necessity for, and the form of, the requested correction.

(C) A member of the public who files a request for correction under paragraph IV.A.2 has the burden of justification with respect to the necessity for correction as well as with respect to the type of correction requested.

B. How does DOE process requests for correction?

1. *Incomplete requests.* If a request for correction is incomplete, DOE may seek clarification from the person submitting the request or return it without prejudice to resubmission.

2. *Public notice of a request for correction.* In selected cases, DOE may publish notice of the receipt of a request for correction and may invite public comment.

3. *Participation by other interested persons.* By letter, DOE may invite or allow other interested persons to comment on a request for correction.

4. *Initial decisions.* If the request for correction concerns information that does not involve a document subject to public comment, then the originating office of the DOE Element responsible for dissemination of the information should provide at least an initial decision within 60 days from the date of receipt. The response should contain a statement of reasons for the disposition. If an initial decision on a request for correction under this paragraph requires more than 60 days, then the DOE Element should inform the requestor that more time is required and indicate the reason why and an estimated decision date.

5. *Administrative appeals.* In the event DOE initially denies a request for correction of information not subject to public comment and the person who submitted the request would like additional review, then that person must submit a request for review, including a statement of reasons for modifying or reversing the initial decision, no later than 30 days from the date of that decision. A request for review under this paragraph must be submitted by e-mail to dictrs.quid@hq.doe.gov or by regular mail to Office of the Chief Information Officer, Attention: DOE Quality Guidelines, U.S. Department of Energy, Forrestal Building -- Room 8H-089, 1000 Independence Avenue N.W., Washington, D.C. 20585, or via Fax to (202) 586-7966. The CIO will direct the request for review to the DOE Element which supervises the originating DOE program office, and the DOE Element, with the concurrence of the Office of General Counsel, should issue a final decision for DOE (with a copy to the CIO) within 60 days from the date that the request for review is received. If a final decision on a request for correction under this paragraph requires more than 60 days, then the DOE Element should inform the requestor that more time is required and indicate the reason why and an estimated decision date.

6. Any corrective action will be determined by the nature and timeliness of the information, the magnitude of the error, and the cost of undertaking a correction. DOE Elements are not required to change, or in any way alter, the content or status of information simply based on the receipt of a request for correction. DOE Elements need not respond substantively to frivolous or repetitive requests for correction. Nor do DOE Elements have to respond substantively to requests that concern information not covered by the OMB or DOE Guidelines or from a person who has not justified the necessity for correction.

7. If DOE determines that a request for correction of information not subject to public comment has merit, DOE may respond by correcting the information in question and without issuing a decision explaining the reasons for accepting the request.

8. If DOE receives multiple requests for correction of information not subject to public comment, DOE may consolidate the requests and respond on a DOE web site, or by notice in the *Federal Register*, or by issuing a correction in similar form and manner as the original information was issued.

9. If a member of the public complains about information set forth or referenced with

endorsement in a DOE or DOE-sponsored document and does not request correction under the OMB and DOE guidelines, then the complaint is not subject to processing as a request for correction under those guidelines.

10. If a member of the public requests correction of information first disseminated more than one year prior to the request and the information does not have a continuing significant impact on DOE projects or policy decisions or on important private sector decisions, DOE may regard the information as stale for purposes of responding to the request.

11. DOE may devise additional procedures on a case-by-case basis as may be appropriate to process requests for correction.

V. DOE Reporting Requirements.

On an annual basis, the Office of the CIO (OCIO) will report to the Director of OMB on the requests for corrections received under these Guidelines. DOE elements must designate a reporting official, except as agreed otherwise between the DOE Element and the OCIO. The OCIO will work with the DOE Element reporting officials to develop the annual OMB report beginning January 1, 2004. The report will include the number of complaints received, nature of complaints (e.g., request for deletion or correction) and how they are resolved (i.e.g number corrected, denied, or pending review).